

granted in writing by the department. Currently, such an exemption can be provided by means of a variance issued in accordance with LAC 33:III.917 and 2119. However, per R.S. 30:2056(C), a variance cannot be granted for a period of time greater than one year. This rule is also being proposed as a revision to the Louisiana State Implementation Plan for air quality. The basis and rationale for this rule are to establish a regulatory mechanism to allow the department to permanently exempt emissions units from the control of emissions of organic compounds when conformity with applicable provisions would create an unreasonable risk to health, welfare, or safety.

This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 21. Control of Emission of Organic Compounds

Subchapter A. General

§2117. Exemptions

A. - Table ...

B. If, upon written application of a responsible official, the administrative authority finds that strict conformity with any provision of these regulations would create an unreasonable risk to health, welfare, or safety, the administrative authority may provide an exemption from that provision to prevent loss of life, personal injury, or severe property damage. Approval of such an exemption is not implied, but must be expressly granted in writing by the administrative authority.

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended LR 16:118 (February 1990), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 20:289 (March 1994), LR 21:681 (July 1995), LR 21:1330 (December 1995), repromulgated LR 22:14 (January 1996), amended LR 22:703 (August 1996), LR 23:1661 (December 1997), LR 24:22 (January 1998), LR 25:258 (February 1999), amended by the Office of Environmental Assessment, LR 31:1062 (May 2005), amended by the Office of the Secretary, Legal Affairs Division, LR 32:

A public hearing will be held on July 25, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D. at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ263. Such comments must be received no later than August 1, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D.,

Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ263. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

FISCAL AND ECONOMIC IMPACT STATEMENT
FOR ADMINISTRATIVE RULES
RULE TITLE: Emissions Units Exemptions

I. ESTIMATED IMPLEMENTATION COSTS (SAVINGS) TO STATE OR LOCAL GOVERNMENT UNITS (Summary)

There will be no costs or savings to state or local governmental units as a result of this rule.

II. ESTIMATED EFFECT ON REVENUE COLLECTIONS OF STATE OR LOCAL GOVERNMENTAL UNITS (Summary)

There will be no effect on revenue collections of state or local governmental units.

III. ESTIMATED COSTS AND/OR ECONOMIC BENEFITS TO DIRECTLY AFFECTED PERSONS OR NONGOVERNMENTAL GROUPS (Summary)

There will be no costs and/or economic benefits to directly affected persons or non-governmental groups. LDEQ anticipates extremely limited use of this exemption. Currently, the agency is aware of only one situation which warrants such an exemption, and in this instance, its approval will not result in an increase in emissions.

IV. ESTIMATED EFFECT ON COMPETITION AND EMPLOYMENT (Summary)

There will be no effect on competition; no effect on employment in the public or private sector will be realized.

Herman Robinson, CPM
Executive Counsel
0606#031

Robert E. Hosse
Staff Director
Legislative Fiscal Office

NOTICE OF INTENT

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Incorporation by Reference of the Acid Rain Program
(LAC 33:III.505)(AQ259ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.505 (Log #AQ259ft).

This proposed Rule is identical to federal regulations found in 40 CFR Part 72 (July 1, 2005), and 70 FR 25162-25210 (May 12, 2005) and 71 FR 25328-25469 (April 28, 2006), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule replaces the existing Acid Rain Program regulations with an incorporation by reference of the recently revised federal regulations concerning the Acid Rain Program. This action is necessary in order for Louisiana to adopt the general and specific provisions for the CAIR SO₂ Trading Program, under Section 110 of the Clean Air Act, as a means of mitigating interstate transport of fine particulate and sulfur dioxide. By adopting the Acid Rain Program, 40 CFR Part 72, in its entirety, the state is authorizing EPA to assist the state in implementing the CAIR SO₂ Trading Program.

On March 10, 2005, EPA announced the Clean Air Interstate Rule (CAIR), a rule that will achieve reduction in air pollution by regulating sulfur dioxide (SO₂) and nitrogen oxides (NO_x) emissions from 23 states and the District of Columbia. These pollutants contribute to levels of fine particles (PM_{2.5}) in areas above the air quality standard in downwind states. In addition, NO_x emissions in 25 eastern states and the District of Columbia contribute to levels of ozone in areas above the air quality standard for 8-hour ozone in other downwind states. In developing the CAIR SO₂ regulations and the cap-and-trade program, the Environmental Protection Agency relied on the successful Acid Rain Program/cap-and-trade program. The resulting CAIR SO₂ cap-and-trade program was merged with the Acid Rain cap-and-trade program when CAIR defined CAIR SO₂ allocations as those allocations made under the Acid Rain Program. EPA has promulgated changes to the Acid Rain Program that reflect the CAIR SO₂ requirements. These actions enable the CAIR SO₂ cap-and-trade program to accept Acid Rain SO₂ allocations for trading, selling, and/or determining compliance with the CAIR SO₂ program. The recent changes to the Acid Rain Program at the federal level due to CAIR will require the state to modify its Acid Rain rule at LAC 33:III.505. The incorporation of the federal Acid Rain Rule will ensure continuity between the Acid Rain Program and the implementation of the CAIR SO₂ Program. The basis and rationale for this Rule are to mirror the federal regulations.

This proposed Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33

ENVIRONMENTAL QUALITY

Part III. Air

Chapter 5. Permit Procedures

§505. Acid Rain Program Permitting Requirements

A. Acid Rain Program General Provisions. The Acid Rain Program regulations, published in the *Code of Federal*

Regulations at 40 CFR 72.1-72.13, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

B. Designated Representative. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR 72.20-72.25, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

C. Acid Rain Permit Applications. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR 72.30-72.33, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

D. Acid Rain Compliance Plan and Compliance Options. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR 72.40-72.44, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

E. Acid Rain Permit Contents. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR 72.50-72.51, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

F. Federal Acid Rain Permit Issuance Procedures. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR 72.60-72.69, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

G. Acid Rain Phase II Implementation. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR 72.70-72.74, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

H. Permit Revisions. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR 72.80-72.85, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

I. Compliance Certification. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR 72.90-72.96, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

J. Methodology for Annualization of Emissions Limits. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR Part 72, Appendix A, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

K. Methodology for Conversion of Emissions Limits. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR Part 72, Appendix B, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

L. Actual 1985 Yearly SO₂ Emissions Calculation. The Acid Rain Program regulations, published in the *Code of*

Federal Regulations at 40 CFR Part 72, Appendix C, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

M. Calculation of Potential Electric Output Capacity. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR Part 72, Appendix D, July 1, 2005, and as revised at 70 FR 25162-25210, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

N. Copies of documents incorporated by reference in this Section may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, www.gpoaccess.gov/cfr/index.html; from the Department of Environmental Quality, Office of Environmental Services, Air Permits Division; or from a public library.

O. Modifications or Exceptions. Whenever the referenced regulations (i.e., 40 CFR Part 72) provide authority to "the Administrator," such authority, in accordance with these regulations, shall be exercised by the administrative authority or his designee, notwithstanding any authority exercised by the U.S. Environmental Protection Agency (EPA). Reports, notices, or other documentation required by the referenced regulations (i.e., 40 CFR Part 72) to be provided to "the Administrator" shall be provided to the Office of Environmental Services, Air Permits Division, where the state is designated authority by EPA as "the Administrator," or shall be provided to the Office of Environmental Services, Air Permits Division and EPA, where EPA retains authority as "the Administrator."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 21:678 (July 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2446 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2429, 2436 (October 2005), LR 32:

A public hearing will be held on July 25, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ259ft. Such comments must be received no later than July 25, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to fax (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-

3168. Check or money order is required in advance for each copy of AQ259ft. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

0606#025

NOTICE OF INTENT

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Incorporation by Reference of the
CAIR SO₂ Trading Program
(LAC 33:III.506)(AQ260ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to adopt the Air regulations, LAC 33:III.506 (Log #AQ260ft).

This proposed Rule is identical to federal regulations found in 40 CFR Part 96, Subparts AAA, BBB, CCC, FFF, GGG, and HHH (July 1, 2005), and 70 FR 25162-25210 (May 12, 2005) and 71 FR 25328-25469 (April 28, 2006), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule incorporates by reference the federal regulations concerning the Clean Air Interstate Rule (CAIR) SO₂ Trading Program. This action is necessary in order for Louisiana to adopt the general and specific provisions for the CAIR SO₂ Trading Program, under Section 110 of the Clean Air Act, as a means of mitigating interstate transport of fine particulate and sulfur dioxide. By adopting 40 CFR Part 96, Subparts AAA-HHH, the state is authorizing EPA to assist the state in implementing the CAIR SO₂ Trading Program.

On March 10, 2005, EPA announced the Clean Air Interstate Rule (CAIR), a rule that will achieve reduction in air pollution by regulating sulfur dioxide (SO₂) and nitrogen oxides (NO_x) emissions from 23 states and the District of Columbia. These pollutants contribute to levels of fine particles (PM_{2.5}) in areas above the air quality standard in downwind states. In addition, NO_x emissions in 25 eastern states and the District of Columbia contribute to levels of ozone in areas above the air quality standard for 8-hour ozone in other downwind states. In developing the CAIR SO₂ regulations and the cap-and-trade program, the

CAPITAL CITY PRESS

Publisher of
THE ADVOCATE

PROOF OF PUBLICATION

The hereto attached notice was published in THE ADVOCATE, a daily newspaper of general circulation published in Baton Rouge, Louisiana, and the official Journal of the State of Louisiana, the City of Baton Rouge, and the Parish of East Baton Rouge, in the following issues:

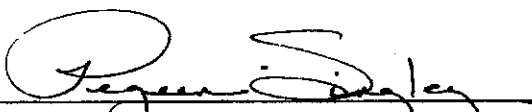
06/15/06



Susan A. Bush, Public Notices Clerk

Sworn and subscribed before me by the person whose signature appears above:

June 15, 2006



Pegeen Singley, Notary Public, #60565
My Commission Expires: Indefinite
Baton Rouge, Louisiana

DEQ - OSEC/LARD REGULATION

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ENVIRONMENTAL
REGULATION DEVELOPMENT SECTION

NOTICE OF INTENT

Department of
Environmental Quality
Office of the Secretary
Legal Affairs Division

Incorporation by Reference of
the Acid Rain Program
(LAC 33:III.505) (AQ259ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:III.505 (Log #AQ259ft).

This proposed rule is identical to federal regulations found in 40 CFR Part 72 (July 1, 2005), and 70 FR 25182-25210 (May 12, 2005) and 71 FR 25328-25469 (April 28, 2006), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:950(f)(3) and (4).

This proposed rule meets an exception listed in R.S. 30:2019 (D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy, as described in R.S. 49:972.

A public hearing will be held on July 25, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage with a validated parking ticket.

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This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471; Herman Robinson, CPM Executive Counsel 3347298-jun 15-11

This rule replaces the existing Acid Rain Program regulations with an incorporation by reference of the recently revised federal regulations concerning the Acid Rain Program. This action is necessary in order for Louisiana to adopt the general and specific provisions for the CAIR SO₂ Trading Program, under Section 110 of the Clean Air Act, as a means of mitigating interstate transport of fine particulate and sulfur dioxide. By adopting the Acid Rain Program, 40 CFR Part 72, in its entirety, the state is authorizing EPA to assist the state in implementing the CAIR SO₂ Trading Program.

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REGULATION DEVELOPMENT SECTION

AFFIDAVIT OF PUBLICATION

AQ259ft

(A Correct Copy of Publication)

NOTICE OF INTENT

Department of
Environmental Quality
Office of the Secretary
Legal Affairs Division

Incorporation by
Reference of the Acid
Rain Program
(LAC 33:111.505)
(AQ259ft)

Under the authority of
the Environmental
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scribed in R.S. 49:972.

I, Bill Buschmann, Classified Advertising Manager

of THE TOWN TALK, published at Alexandria,

Louisiana do solemnly swear that the

Public Notice

advertisement, as per clipping attached, was
published in the regular and entire issue of said
newspaper, and not in any supplement thereof
for one insertions commencing with the issue
dated June 16, 2006 and ending with the
issue dated June 16, 2006.

Bill Buschmann

Subscribed and sworn to before me
this 16th day of June, 2006

Notary Number 019888

A public hearing will be held on July 25, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 602 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation, in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons submitting comments should reference this proposed regulation by AQ2501. Such comments must be received no later than July 25, 2006, at 4:30 p.m. and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70802-4302, or to FAX (225) 219-3550 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money orders are required in advance for each copy of AQ2501. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 71101; 1301 Gadwall Street, Lake Charles, LA 70615; 111 New Center Drive, Lafayette, LA 70506; 1110 Barataria Street, Lockport, LA 70374; 445 N. Lotus Drive, Sulphur, LA 70471.

HERMAN ROBINSON,
CPM,
Executive Counsel

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Acadiana's Daily Newspaper

LOUISIANA
REGULATION DEVELOPMENT SECTION

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PHONE: (337) 289-6300
FAX: (337) 289-6466

AFFIDAVIT OF PUBLICATION

Remender D. Weatherspoon
LA Department of Environmental Quality
OSEC/Legal Affairs Division/
Regulation Development Section
P. O. Box 4302
Baton Rouge, LA 70821-4302

Account No.: LDEQRD
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P.O. Box 3268, Lafayette, LA 70502-3268

I, ROSE PENFOLD, do solemnly swear that I am the LEGAL CLERK of THE ADVERTISER,
a newspaper printed and published at Lafayette, in the Parish of Lafayette, State of Louisiana, and
that from my personal knowledge and reference to the files of said publication, the advertisement of

NOTICE OF INTENT
Department of Environmental Quality
Office of the Secretary
Legal Affairs Division
Incorporation by Reference of the Acid Rain Program
(LAC 33:III.505) (AQ259ft)

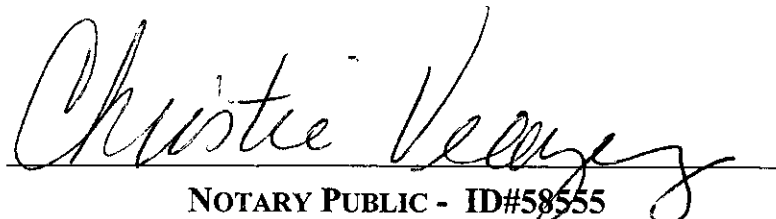
was published in THE ADVERTISER on the following dates:

***Wednesday, June 14, 2006**



ROSE PENFOLD
LEGAL CLERK

Sworn to and subscribed before me this 14 day of June, 2006.



NOTARY PUBLIC - ID#58555

612076
NOTICE OF INTENT

Department of
Environmental Quality
Office of the Secretary
Legal Affairs Division

Incorporation by
Reference of the Acid
Rain Program
(LAC 33:111.505)
(AQ2591)

Under the authority
of the Environmental
Quality Act, R.S.
30:2001 et seq., and in
accordance with the
provisions of the Ad-
ministrative Procedure
Act, R.S. 49:950 et seq.,
the secretary gives no-
tice that rulemaking
proceedings have been
initiated to amend the
regulations, LAC 33:
111.505 et seq. (Log
AQ2591).

This proposed rule is
identical to federal
regulations found in 40
CFR Part 72 (July 11,
2005) and 70 FR 25162-
25210 (May 12, 2005)
and 71 FR 25328-25469
(April 28, 2006), which
are applicable in Louisi-
ana. For more infor-
mation regarding the
federal requirements, contact the Regulation
Development Section
at (225) 219-3550 or Box
4302, Baton Rouge, LA
70821-4302. No fiscal or
economic impact will
result from the pro-
posed rule; therefore,
the rule will be pro-
mulgated in accord-
ance with R.S.
49:953(F)(3) and (4).

This rule replaces
the existing Acid Rain
Program regulations
with an incorporation
by reference of the re-
cently revised federal
regulations concerning
the Acid Rain Pro-
gram. This action is
necessary in order for
Louisiana to adopt the
general and specific
provisions of the
CAIR SO₂ Trading
Program under Sec-
tion 110 of the Clean
Air Act, as a means of
mitigating interstate
transport of fine par-
ticulate and sulfur di-
oxide. By adopting the
Acid Rain Program, 40
CFR Part 72, in its en-
tirety, the state is au-
thorizing EPA to assist
the state in implemen-
ting the CAIR SO₂
Trading Program.

On March 10, 2005,
EPA announced the
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that will achieve re-
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emissions from 23
states and the District
of Columbia. These
pollutants contribute to
levels of fine particles
(P.M._{2.5}) in areas
above the air quality
standard in downwind
states. In addition,
NO_x emissions in 25
eastern states and the
District of Columbia
contribute to levels of
ozone in areas above
the air quality stand-
ard for 8-hour ozone in
other downwind states.
In developing the CAIR
SO₂ Regulations and
the cap-and-trade pro-
gram, the Environ-
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Agency relied on the
successful Acid Rain
Program cap-and-

trade program. The
resulting CAIR SO₂
cap-and-trade program
was merged with the
Acid Rain cap-and-
trade program when
CAIR defined CAIR
SO₂ allocations as
those allocations made
under the Acid Rain
Program. EPA has
promulgated changes
to the Acid Rain Pro-
gram that reflect the
CAIR SO₂ require-
ments. These actions
enable the CAIR SO₂
cap-and-trade program
to accept Acid Rain
SO₂ allocations for
trading, selling, and/or
determining compli-
ance with the CAIR
SO₂ program. The re-
cent changes to the
Acid Rain Program at
the federal level due to
CAIR will require the
state to modify its Acid
Rain rule at LAC
33:111.505. The incor-
poration of the federal
Acid Rain Rule will en-
sure continuity be-
tween the Acid Rain
Program and the im-
plementation of the
CAIR SO₂ Program.
The basis and rationale
for this rule are to mir-
ror the federal
regulations.

This proposed rule
meets an exception
listed in R.S.
30:2019(D)(2) and R.S.
49:953(G)(3). There-
fore, no report regard-
ing new or

environmental health
benefits, and
social/economic costs
is required. This pro-
posed rule has no
known impact on fam-
ily formation, stability,
and autonomy as de-
scribed in R.S. 49:972.

A public hearing will
be held on July 25,
2006, at 4:30 p.m. in the
Galvez Building, Oliver
Pollock Conference
Room, 602 North Fifth
Street, Baton Rouge,
LA 70802. Interested
persons are invited to
attend and submit oral
comments on the pro-
posed amendments.
Should individuals with
a disability need an ac-
commodation in order
to participate, contact
Judith A. Schuerman,
Ph.D., at the address
given below or at (225)
219-3550. Free parking
is available in the
Galvez Garage with a
validated parking
ticket.

All interested per-
sons are invited to sub-
mit written comments
on the proposed regu-
lation. Persons com-
menting should refer-
ence this proposed reg-
ulation by AQ2591.
Such comments must
be received no later
than July 25, 2006, at
4:30 p.m. and should
be sent to Judith A.
Schuerman, Ph.D., Of-
fice of the Secretary,
Legal Affairs Division,
Box 4302, Baton Rouge,
LA 70821-4302 or to
FAX (225) 219-3582 or
by e-mail to
judith.schuerman@la.gov.
The comment peri-
od for this rule ends on
the same date as the
public hearing. Copies
of this proposed regu-
lation can be pur-
chased by contacting
the DEQ Public Re-
cord Center at (225)
219-3166. Check of
money order is re-
quired in advance for
each copy of AQ2591.

This regulation is
available on the Inter-
net at
www.deq.louisiana.gov
under "Rules and
Regulations".

This proposed regula-
tion is available for in-
spection at the follow-
ing DEQ office loca-
tions from 8 a.m. until
4:30 p.m.: 602 N. Fifth
Street, Baton Rouge,
LA 70802; 1823 High-
way 546, West Monroe,
LA 71292; State Office
Building, 1526 Rainfield
Avenue, Shreveport,
LA 71101; 1301 Gadwall
Street, Lake Charles,
LA 70615; 111 New Cen-
ter Drive, Lafayette,
LA 70508; 110
Barrataria Street,
Bossier City, LA 70604;
1100 Lakeside Drive, Suite
C, Mandeville, LA
70471.

German Robinson
CRM
Executive Counsel

NOTICE OF INTENT
Department of Environmental Quality
Office of the Secretary
Legal Affairs Division
Incorporation by Reference of the Acid Rain Program
(LAC 33:111.505)
(AQ259ff)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary gives notice that rulemaking procedures have been initiated to amend the Air regulations, LAC 33:111.505 (Log #AQ259ff).

This proposed rule is identical to federal regulations found in 40 CFR Part 72 (July 1, 2005), and 70 FR 25162-25210 (May 12, 2005) and 71 FR 25328-25469 (April 28, 2006), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the proposed rule; therefore, the rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This rule replaces the existing Acid Rain Program regulations with an incorporation by reference of the recently revised federal regulations concerning the Acid Rain Program. This action is necessary in order for Louisiana to adopt the general and specific provisions for the CAIR SO₂ Trading Program, under Section 110 of the Clean Air Act, as a means of mitigating interstate transport of fine particulate and sulfur dioxide. By adopting the Acid Rain Program, 40 CFR Part 72, in its entirety, the state is authorizing EPA to assist the state in implementing the CAIR SO₂ Trading Program.

On March 10, 2005, EPA announced the Clean Air Interstate Rule (CAIR), a rule that will achieve reduction in air pollution by regulating sulfur dioxide (SO₂) and nitrogen oxides (NO_x) emissions from 23 states and the District of Columbia. These pollutants contribute to levels of fine particulates (PM_{2.5}) in areas above the air quality standard in downwind states. In addition, NO_x emissions in 25 eastern states and the District of Columbia contribute to levels of ozone in areas above the

Affidavit of Publication

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JUN 28 2006

REGULATION DEVELOPMENT SECTION

STATE OF LOUISIANA

Parish of Calcasieu

Before me the undersigned authority, personally came and appeared

Cardi Decker

who being duly sworn, deposes and says:

He/She is a duly authorized agent of

LAKE CHARLES AMERICAN PRESS

a newspaper published daily at 4900 Highway 90 East,

Lake Charles, Louisiana, 70615. (Mail address: P.O. Box 2893

Lake Charles, LA 70602)

The attached Notice was published in said newspaper in its issue(s) dated:

00264919 - \$56.00

June 16, 2006

00053262
LA. DEQ OSEC/LARD
REGULATION DEVELOPMENT
REMENDER WEATHERSPOON
P.O. BOX 4302
BATON ROUGE, LA 70821-4302

Cardi Decker

Duly Authorized Agent

Subscribed and sworn to before me on this 16th day of June, 2006 at Lake Charles, LA

Gwendolyn R. Dugas

00053262

LA. DEQ OSEC/LARD

Notary Public

Gwendolyn R. Dugas
#056523

air quality standard for 8-hour ozone in other downwind states. In developing the CAIR SO₂ regulations, and the cap-and-trade program, the Environmental Protection Agency relied on the successful Acid Rain Program/cap-and-trade program. The resulting CAIR SO₂ cap-and-trade program was merged with the Acid Rain cap-and-trade program when CAIR defined CAIR SO₂ allocations as those allocations made under the Acid Rain Program. EPA has promulgated changes to the Acid Rain Program that reflect the CAIR SO₂ requirements. These actions enable the CAIR SO₂ cap-and-trade program to accept Acid Rain SO₂ allocations for trading, selling, and/or determining compliance with the CAIR SO₂ program. The recent changes to the Acid Rain Program at the federal level due to CAIR will require the state to modify its Acid Rain Rules and LAC 33:111.585. The incorporation of the federal Acid Rain Rule will ensure continuity between the Acid Rain Program and the implementation of the CAIR SO₂ Program. The basis and rationale for this rule are to mirror the federal regulations. This proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental health benefits and social/economic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972. A public hearing will be held on July 25, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room, 402 N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225)

219-3550. Free parking is available in the Galvez Garage with a validated parking ticket. All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ25911. Such comments must be received no later than July 25, 2006, at 4:30 p.m., and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@la.gov. The comment period for this rule ends on the same date as the public hearing. Copies of this proposed regulation can be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ25911. This regulation is available on the Internet at www.deq.louisiana.gov under Rules and Regulations. This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 546, West Monroe, LA 71292; State Office Building, 1825 Fairfield Avenue, Shreveport, LA 71101; 1301 Goddard Street, Lake Charles, LA 70605; 110 New Center Drive, Lafayette, LA 70506; 110 Branding Street, Lockport, LA 70371; 645 N. Louis Drive, Suite C, Mandeville, LA 70471; and 1001 Poydras Street, New Orleans, LA 70112. Contact: Judith A. Schuerman, Robinson CP, Mailing Address: Executive Council, June 16, 2006, 11:00 AM, 00264919.

The Times

RECEIVED

JUN 19 2006

LDLQ/DSEC/LARD
REGULATION DEVELOPMENT SECTION

NOTICE OF INTENT

Department of
Environmental Quality
Office of the Secretary
Legal Affairs Division

Incorporation by
Reference of the Acid
Rain Program
(LAC 33:III.505)
(AQ259ft)

Under the authority of
the Environmental Quali-
ty Act, R.S. 30:2001 et
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with the provisions of the
Administrative Proce-
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28, 2006), which are ap-
plicable in Louisiana.
For more information re-
garding the federal re-
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Regulation Development
Section at (225) 219-
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By adopting the Acid
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EPA to assist the state in
implementing the CAIR
SO₂ Trading Program.

PROOF OF PUBLICATION

00000

STATE OF LOUISIANA

PARISH OF CADDO

Before me, the undersigned authority, personally came and appeared

Altheas Critton,

personally known to me,

Who being duly sworn, deposes and says that she is the Assistant to the
Classified Advertising Manager of The Times, and that the attached
Advertisement entitled:

NOTICE OF INTENT Department of Environmental Quality Office
of the Secretary Legal Affairs Division (AQ259ft)

June 14, 2006

(Signed)

Altheas Critton

Sworn to and subscribed before me this 14th day of June, 2006

Diana W. Barber
(Notary)

DIANA W. BARBER, NOTARY PUBLIC # 60491
CADDO PARISH, LOUISIANA
MY COMMISSION IS FOR LIFE

On March 10, 2005, EPA announced the Clean Air Interstate Rule (CAIR), a rule that will achieve a reduction in air pollution by regulating sulfur dioxide (SO₂) and nitrogen oxides (NO_x) emissions from 23 states and the District of Columbia. These pollutants contribute to levels of fine particles (PM_{2.5}) in areas above the air quality standard in downwind states. In addition, NO_x emissions in 25 eastern states and the District of Columbia contribute to levels of ozone in areas above the air quality standard for 8-hour ozone in other downwind states. In developing the CAIR SO₂ regulations and the cap-and-trade program, the Environmental Protection Agency relied on the successful Acid Rain Program/cap-and-trade program. The resulting CAIR SO₂ cap-and-trade program was merged with the Acid Rain cap-and-trade program when CAIR designated CAIR SO₂ allocations as those allocations made under the Acid Rain Program. EPA has promulgated changes to the Acid Rain Program that reflect the CAIR SO₂ requirements. These actions enable the CAIR SO₂ cap-and-trade program to be implemented as a continuation of the Acid Rain SO₂ allocations for trading, selling, and determining compliance with the CAIR SO₂ program. The recent changes to the Acid Rain Program at the federal level due to CAIR will require the state to modify its Acid Rain rule at LAO 33-III-503. The incorporation of the federal Acid Rain rule will ensure continuity between the Acid Rain Program and the implementation of the CAIR SO₂ Program. The basis and rationale for this rule are to mirror the federal regulations.

The proposed rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 30:953(G)(3); therefore, no report regarding environmental/health benefits and socioeconomic costs is required. This proposed rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

A public hearing will be held on July 25, 2006, at 1:30 p.m. in the Galvez Building, Oliver Pollock Conference Room 602, N. Fifth Street, Baton Rouge, LA 70802. Interested persons are invited to attend and submit oral comments on the proposed amendments. Should individuals with a disability need an accommodation in order to participate, contact Judith A. Schuerman, Ph.D., at the address given below or at (225) 219-3550. Free parking is available in the Galvez Garage with a validated parking ticket.

All interested persons are invited to submit written comments on the proposed regulation. Persons commenting should reference this proposed regulation by AQ259th. Such comments must be received no later than July 25, 2006, at 4:30 p.m. and should be sent to Judith A. Schuerman, Ph.D., Office of the Secretary, Legal Affairs Division, Box 4302, Baton Rouge, LA 70821-4302 or to FAX (225) 219-3582 or by e-mail to judith.schuerman@dep.louisiana.gov. The comment period for this rule ends on the same date as the public hearing. Copies of the proposed regulation may be purchased by contacting the DEQ Public Records Center at (225) 219-3168. Check or money order is required in advance for each copy of AQ259th. This regulation is available on the Internet at www.dep.louisiana.gov under Rules and Regulations.

This proposed regulation is available for inspection at the following DEQ office locations from 8 a.m. until 4:30 p.m.: 602 N. Fifth Street, Baton Rouge, LA 70802; 1823 Highway 63, West Monroe, LA 70091; State Office Building, 1525 Fairfield Avenue, Shreveport, LA 70508; 1301 Gadwall Street, Lake Charles, LA 70601; and New Center Drive, Lafayette, LA 70508; 110 Barataria Street, Lockport, LA 70374; 645 N. Lotus Drive, Suite C, Mandeville, LA 70471.

Herman Robinson, CPM
Executive Counsel

The Times
June 14, 2006

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JUL 28 2006

LOUISIANA
REGULATION DEVELOPMENT SECTION

The Times-Picayune

3800 HOWARD AVENUE, NEW ORLEANS, LOUISIANA 70140-1097

TELEPHONE (504) 826-3206

NOTICE OF INTENTDepartment of Environmental
Quality
Office of the Secretary
Legal Affairs DivisionIncorporation by Reference of
the Acid Rain Program (LAC
33:III.505) (AQ259ff)Under the authority of the
Environmental Quality Act, R.S.
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Judith A. Schuerman, Ph.D.,
Office of the Secretary, Legal
Affairs Division, Box 4302, Baton
Rouge, LA 70821-4302 or to
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comment period for this rule
ends on the same date as the
public hearing. Copies of this
proposed regulation can be
purchased by contacting the
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(225) 219-3168. Check or money
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70802; 1823 Highway 546, West
Monroe, LA 71292; State Office
Building, 1525 Fairfield Avenue,
Shreveport, LA 71181; 1301
Gadwall Street, Lake Charles,
LA 70615; 111 New Center
Drive, Lafayette, LA 70508; 110
Barataria Street, Lockport, LA
70374; 645 N. Lohus Drive, Suite
C, Mandeville, LA 70471.Herman Robinson, CPM,
Executive Counsel

State of Louisiana

Parish of Orleans

City of New Orleans

Personally appeared before me, a Notary in and for the
parish of Orleans, Robert J. Chiasson who deposes and
says that he is the Accounts Receivable Manager, of The
Times-Picayune Publishing Corporation, a Louisiana
Corporation, Publishers of The Times-Picayune, Daily and
Sunday, of general circulation; doing business in the City
of New Orleans and the State of Louisiana, and that the
attached **LEGAL NOTICE**

Re: Notice of Intent Incorporation by Reference of the
Acid Rain Program (LAC 33:III.505)AQ259ff

Dept. Of Environmental Quality

Advertisement of

P.O. BOX 4302

Baton Rouge, La. 70821-4302

The Times Picayune

Was published in

3800 Howard Ave.

New Orleans, La. 70125

On the following dates

June 17, 2006

19th

Sworn to and subscribed before me this
Day of June, 2006



Notary Public

My commission expires at my death.
Charles A. Ferguson, Jr.

Notary identification number 23492

ORIGINAL

D

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN RE: INCORPORATION BY REFERENCE OF THE ACID
RAIN PROGRAM
LAC 33:III.505

LOG NO.: AQ259ft*

The Hearing Concerning

**INCORPORATION BY REFERENCE OF THE ACID RAIN
PROGRAM
LAC 33:III.505**

held, at the Galvez Building, Oliver Pollock
Conference Room, 602 North Fifth Street, Baton
Rouge, Louisiana, beginning at 1:32 p.m., on
July 25, 2006.

BEFORE: Megan B. Welch
Certified Court Reporter
In and For the State of
Louisiana

ASSOCIATED REPORTERS, INC.

(225) 216-2036

RECEIVED

AUG 11 2006

LDLO/USEPA/ARD
REGULATION DEVELOPMENT SECTION

AQ259ft*

2

A P P E A R A N C E S

HEARING OFFICER:
SANDY STEPHENS

1 **MS. STEPHENS:**

2 Good afternoon. My name is Sandy Stephens.
3 I'm employed with the Louisiana Department of
4 Environmental Quality. I'll be serving as the
5 hearing officer this afternoon to receive
6 comments regarding proposed amendments to the
7 Grant parish and St. Mary Parish Ozone
8 Maintenance Plans, and to the Air regulations.

9 The comment period for these amendments
10 began on June 20, 2006, when the potpourri
11 notices and notices of intent were published in
12 the *Louisiana Register*. The comment period will
13 close at 4:30 p.m. on August 24, 2006, for
14 proposed rules AQ25~~9~~9ft and AQ260ft, and at 4:30
15 p.m., August 1, 2006, for the remaining rules
16 and the parish maintenance plan amendments. It
17 would be helpful to us if all oral comments
18 received today were followed up in writing.

19 This public hearing provides a forum for all
20 interested parties to present comments on the
21 proposed changes. I'll ask that each person
22 commenting come up and sit at the front table
23 and begin by stating his or her name and
24 affiliation for the record.

25

1 The first Air rule amendment is designated
2 by the Log Number AQ259ft.

3 This rule replaces the existing Acid Rain
4 Program regulations with an incorporation by
5 reference of the recently revised federal
6 regulations concerning the Acid Rain Program.
7 This action is necessary in order for Louisiana
8 to adopt the general and specific provisions for
9 the CAIR SO2 Trading Program, under Section 110
10 of the Clean Air Act, as a means of mitigating
11 interstate transport of fine particulate and
12 sulfur dioxide. By adopting the Acid Rain
13 Program, 40 CFR Part 72, in its entirety, the
14 State is authorizing EPA to assist the State in
15 implementing the CAIR SO2 Trading Program.

16 On March 10, 2005, EPA announced the Clean
17 Air Interstate Rule (CAIR), a rule that will
18 achieve reduction in air pollution by regulating
19 sulfur dioxide (SO2) and nitrogen oxides (NOx)
20 emissions from 23 states and the District of
21 Columbia. These pollutants contribute to levels
22 of fine particles (PM2.5) in areas above the air
23 quality standard in downwind states. In
24 addition, NOx emissions in 25 eastern states and
25 the District of Columbia contribute to levels of

1 ozone in areas above the air quality standard
2 for 8-hour ozone in other downwind states.

3 In developing the CAIR SO2 regulations and
4 the cap-and-trade program, the Environmental
5 Protection Agency relied on the successful Acid
6 Rain Program/cap-and-trade program. The
7 resulting CAIR CO2 cap-and-trade program was
8 merged with the Acid Rain cap-and-trade program
9 when CAIR defined CAIR SO2 allocations as those
10 allocations made under the Acid Rain Program.
11 EPA has promulgated changes to the Acid Rain
12 Program that reflect the CAIR SO2 requirements.
13 These actions enable the CAIR SO2 cap-and-trade
14 program to accept Acid Rain SO2 allocations for
15 trading, selling, and/or determining compliance
16 with the CAIR SO2 program.

17 The recent changes to the Acid Rain Program
18 at the federal level due to CAIR will require
19 the State to modify its Acid Rain rule at LAC
20 33:III.505. The incorporation of the federal
21 Acid Rain Rule will ensure continuity between
22 the Acid Rain Program and the implementation of
23 the CAIR SO2 Program.

24 Does anyone care to comment on this
25 amendment?

AQ259ft*

6

1 (Pause)

2 If not, the hearing on AQ259ft is closed.

3

4 (THE HEARING CONCLUDED AT 1:34 P.M.)

5

6

7

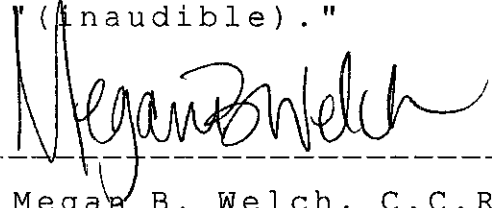
8

R E P O R T E R ' S P A G E

I, Megan B. Welch, Certified Court Reporter,
in and for the State of Louisiana, the officer,
as defined in Rule 28 of the Federal Rules of
Civil Procedure and/or Article 1434(b) of the
Louisiana code of Civil Procedure, before whom
this sworn testimony was taken, do hereby state
on the Record

That due to the interaction in the
spontaneous discourse of this proceeding, dashes
(--) have been used to indicate pauses, changes
in thought, and/or talk overs; that same is the
proper method for a Court Reporters's
transcription of proceeding, and that the dashes
(--) do not indicated that words or phrases have
been left out of this transcript;

That any words and/or names which could not
be verified through reference material have been
denoted with the phrase "(Inaudible)."



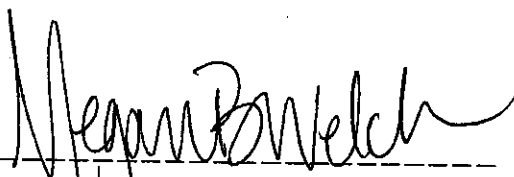
Megan B. Welch, C.C.R.

24027

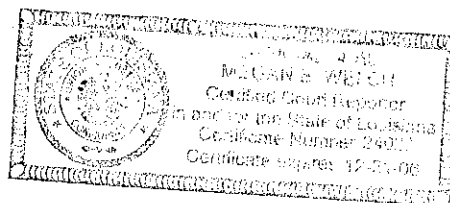
C E R T I F I C A T I O N

I, the undersigned reporter, do hereby
certify that the above and foregoing is a true
and correct transcription of the stenomask tape
of the proceedings had herein, taken down by me
and transcribed under my supervision, to the
best of my ability and understanding, at the
time and place hereinbefore noted, in the above
entitled cause.

I further certify that my license is
in good standing as a court reporter in and for
the state of Louisiana.


Megan B. Welch, C.C.R.

24027





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

AUG 23 2006

Ms. Vivian H. Aucoin
Office of Environmental Assessment
Louisiana Department of Environmental Quality
P.O. Box 4314
Baton Rouge, LA 70821-4314

RE: Additional Comments on Louisiana's Proposed Revisions to the State
Implementation Plan concerning the Clean Air Interstate Rule (SO₂) Trading
Program

Dear Ms. Aucoin:

On August 14, 2006, we submitted a letter to the rulemaking docket providing our support of the proposed revisions to the Louisiana State Implementation Plan (SIP) for the Clean Air Interstate Rule (CAIR) SO₂ Trading Program and revisions to the Acid Rain Program. After further review and consultation with additional offices within the U.S. Environmental Protection Agency (EPA), we have identified several minor errors that need to be corrected to improve rule accuracy and clarity. We continue to support the Louisiana Department of Environmental Quality (LDEQ's) rulemaking and urge you to continue with the adoption process.

The following revisions will improve accuracy and clarity of the proposed SIP revisions:

1. Paragraph two of Section 1.1 incorrectly states that the Acid Rain Program and the CAIR SO₂ Trading Program have merged into one program. While EPA has structured the two trading programs to use a common SO₂ allowance system, each trading program is a separate entity. We recommend that the paragraph in question be revised to read:

"In developing the CAIR SO₂ regulations and the cap and trade program, EPA relied on the successful Acid Rain Program/cap and trade program. The resulting CAIR SO₂ cap and trade program

and the Acid Rain Program use a common SO₂ allowance system. EPA has promulgated changes to the Acid Rain program that provide for this common structure.

These revisions enable the CAIR SO₂ cap and trade program to accept Acid Rain SO₂ allocations for trading, selling, and/or determining compliance with the CAIR SO₂ program.”

Additionally, paragraph one of Section 2.1, the Notice of Intent for AQ259ft, and the Notice of Intent for AQ260ft refer to the Acid Rain Program and CAIR as being a merged program. We recommend that these sections also be revised to reflect the discussion above.

2. The EPA has revised the Acid Rain Program at 40 Code of Federal Regulations (CFR) Parts 72 – 74, and 78 in the 2006 rulemaking. These revisions were published in the Federal Register (FR) at 70 FR 25162 – 25405, on May 12, 2005; and at 71 FR 25328 – 25469. The LDEQ should update the citations to these rulemakings in Section 2.1 of the SIP narrative, the Notice of Intent for AQ259ft, and the regulatory language in Louisiana Administrative Code (LAC) 33:III.505(A)-(L).

The incorporation by reference of 40 CFR Part 72 in AQ259ft, may change the standard permit requirements in 72.9 that LDEQ references in their Acid Rain Permits. We recommend that after adopting AQ259ft, LDEQ review the standard permit requirements listed in the Acid Rain Permits and revise this language upon renewal of the permit if necessary.

3. Section 3.1 incorrectly cites the FR pages of the May 12, 2005 CAIR. Please use the following citation: 70 FR 25162 – 25405. This revision should also be made to the Notice of Intent for AQ260ft and the regulatory language in LAC 33:III.506(C)(1)-(3) and (6)-(8).
4. We are unclear as to the intent of the language in LAC 33:III.505(O) and 506(E), relating to Modifications or Exceptions.

The first sentence of these sections states that whenever the referenced regulations (40 CFR Part 72 and 96) provide authority to the “Administrator” (of EPA), such authority, in accordance with these regulations, shall be exercised by the administrative authority or his designee, notwithstanding any authority exercised by EPA. This appears to have the effect of creating dual or parallel programs. The EPA does not expect that the authorities of the

Administrator under 40 CFR Parts 72 and 96 will be delegated to the State, nor does EPA believe that it is appropriate to establish dual or parallel programs. Therefore, we recommend deleting the first sentences of LAC 33.III.505(O) and 506(E).

The second sentence of these sections provides that reports, notices, or other documentation required by the referenced regulations to be provided to the “Administrator” (of EPA) shall be provided to the Office of Environmental Services, Air Permits Division, where the State is the designated authority by EPA as “the Administrator,” or shall be provided to the Office of Environmental Services, Air Permits Division and EPA, where EPA retains authority as “the Administrator.” As indicated above, EPA does not expect that the authorities of the Administrator under 40 CFR Parts 72 and 96 will be delegated to the State. Therefore, we recommend that this sentence be revised to read, “A copy of each report, notice, or other documentation required by the referenced regulations to be provided to the Administrator shall be provided to the Office of Environmental Services, Air Permits Division by the person required to make the submission to the “Administrator”.”

5. LDEQ’s approach of incorporating by reference provisions of EPA’s SO₂ model trading rule allows LDEQ to use the most recent version of the model rule simply by the updating publication date cited for the model rule.

The first paragraph in LAC 33:III.506(C) states that all of the Federal CAIR SO₂ Model Rule, as promulgated under 40 CFR part 96, is incorporated by reference “except for Subpart III–CAIR SO₂ Opt-in Units and all references to opt-in units.” The EPA believes that this sentence suffices for removal of the opt-in provisions from Louisiana’s regulation and renders unnecessary the efforts to remove specific references to opt-in units currently at LAC 33:III.506(C)(1) and (C)(8). However, if Louisiana prefers to reference specific provisions that address opt-in units at 40 CFR part 96 Subparts AAA–III, the following comments are submitted for the State’s consideration. The EPA is willing to work with Louisiana to help pinpoint what specific language concerning opt-in units should be removed from the incorporation by reference.

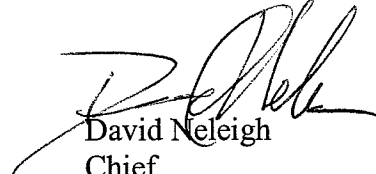
- A. In LAC 33:III.506(C)(1), LDEQ should remove the references to opt-in units in the retired unit exemptions discussion at 40 CFR 96.205(a)(1).

- B. The language regarding the definitions of “CAIR NO_x ozone season unit,” “CAIR NO_x unit,” and “commence commercial operations” should be removed from LAC 33:III.506(C)(1). The definitions of “CAIR NO_x ozone season unit” and “CAIR NO_x unit” have been removed from 40 CFR 96.202 by EPA, and the language regarding opt-in units in the definition of “commence commercial operation” at 40 CFR 96.202 has also been removed by EPA.
- C. LDEQ’s incorporation by reference should include 40 CFR 96.215 in LAC 33:III.506(C)(2).
- D. In LAC 33:III.506(C)(8), paragraph (d)(3)(iv)(D) of 40 CFR 96.271 cannot be removed in its entirety, since this paragraph stipulates requirements for CAIR SO₂ units under 40 CFR 96.204 (CAIR SO₂ applicability) as well as opt-in units under Subpart III. Only the language concerning opt-in units should be removed from paragraph (d)(3)(iv)(D).
- E. In LAC 33:III.506(C)(8), paragraph (b) of 40 CFR 96.272 cannot be removed in its entirety, since this paragraph stipulates requirements for CAIR SO₂ units under 40 CFR 96.204 (CAIR SO₂ applicability) as well as opt-in units under Subpart III. Only the language concerning opt-in units should be removed from paragraph (b).
- F. In LAC 33:III.506(C)(8), LDEQ should remove the incorporation by reference of 40 CFR 96.276, since EPA has removed this subsection.
- G. In LAC 33:III.506(C)(8), LDEQ should remove the references to monitoring plans for opt-in units found in 40 CFR 96.274(b).
- H. In LAC 33:III.506(C)(8), LDEQ should remove the references for quarterly emissions data reports for opt-in units at 40 CFR 96.274(d)(1)(iii) and (iv).

Thank you again for the opportunity to provide comments. Please note that our comments do not constitute a final decision on approvability of the SIP and rule language. We look forward to working with LDEQ as you move forward in responding

to these comments and finalizing the Louisiana CAIR SO₂ Trading Program SIP. If you have any questions, please call Mr. Matthew Loesel or Ms. Adina Wiley of my staff at (214) 665-8544 or (214) 665-2115, respectively.

Sincerely yours,



David Neleigh
Chief
Air Permits Section

**Comment Summary Response & Concise Statement – AQ259ft
Amendments to the Air Regulations
Incorporation by Reference of the Acid Rain Program
LAC 33:III.505**

Concise Statement arguments:

FOR: [The reason supporting WHY the suggestion in the comment should be adopted by DEQ.
Usually this is the commenter's perspective.]

AGAINST: [The reason WHY the department feels the suggestion should NOT be adopted.]

COMMENT 1: Paragraph two of Section 1.1 of the proposed state implementation plan (SIP) incorrectly states the Acid Rain Program and the CAIR SO₂ Trading Program have merged into one program. Revise the paragraph to read as follows.

“In developing the CAIR SO₂ regulations and the cap and trade program, EPA relied on the successful Acid Rain Program/cap and trade program. The resulting CAIR SO₂ cap and trade program and the Acid Rain Program use a common SO₂ allowance system. EPA has promulgated changes to the Acid Rain program that provide for this common structure.

These revisions enable the CAIR SO₂ cap and trade program to accept Acid Rain SO₂ allocations for trading, selling, and/or determining compliance with the CAIR SO₂ program.”

No arguments necessary since the provision in question is not part of this rulemaking.

RESPONSE 1: — No amendment to the rule is necessary.

COMMENT 2: Paragraph one of Section 2.1 of the SIP and the Notice of Intent refer to the Acid Rain Program and CAIR as being merged. Revise these sections to reflect the resulting CAIR SO₂ cap and trade program and the Acid Rain Program use a common SO₂ allowance system.

No arguments necessary since the provision in question is not part of this rulemaking.

RESPONSE 2: — No amendment to the rule is necessary.

COMMENT 3: The incorporation by reference of 40 CFR Part 72 may change the standard permit requirements in 72.9, that are referenced in the Acid Rain Permits. After adopting AQ259ft, the department should review and revise, if necessary, the standard permit requirements language in the Acid Rain Permits.

No arguments necessary since the provision in question is not part of this rulemaking.

RESPONSE 3: — No amendment to the rule is necessary.

COMMENT 4: §505.A-L — EPA revised the Acid Rain Program at 40 CFR Parts 72-74, and 78 in the 2006 rulemaking. These revisions were published in the *Federal Register* at 70 FR 25162-25405, on May 12, 2005; and at 71 FR 25328-25469. These citations should be updated in the SIP, the Notice of Intent, and the proposed rule.

The department agrees with the comment; no arguments are necessary.

RESPONSE 4: — The department will amend the rule to correct the citation.

COMMENT 5: §505.O — Delete the first sentence because the intent of the language is unclear. The first sentence appears to create dual or parallel programs. The EPA does not expect that the administrative authorities, under 40 CFR Parts 72 and 96, will be delegated to the State, nor does EPA believe that it is appropriate to establish dual or parallel programs.

The department agrees with the comment; no arguments are necessary.

RESPONSE 5: — The department will amend the rule.

COMMENT 6: §505.O — Revise the second sentence as follows because the language is unclear. “A copy of each report, notice, or other documentation required by the referenced regulations to be provided to the Administrator shall be provided to the Office of Environmental Services, Air Permits Division, by the person required to make the submission to the “Administrator”.”

The department agrees with the comment; no arguments are necessary.

RESPONSE 6: — The department will amend the rule.

**Comment Summary Response & Concise Statement Key – AQ259ft
Amendments to the Air Regulations
Incorporation by Reference of the Acid Rain Program
LAC 33:III.505**

COMMENT #

SUGGESTED BY

1 — 6

David Neleigh / U.S. EPA, Chief, Air Permits Section

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Incorporation by Reference of the CAIR SO₂ Trading Program (LAC 33:III.506)(AQ260ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has adopted the Air regulations, LAC 33:III.506 (Log #AQ260ft).

This Rule is identical to federal regulations found in 40 CFR Part 96, Subparts AAA, BBB, CCC, FFF, GGG, and HHH (July 1, 2005), and 70 FR 25162-25405 (May 12, 2005) and 71 FR 25328-25469 (April 28, 2006), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule incorporates by reference the federal regulations concerning the Clean Air Interstate Rule (CAIR) SO₂ Trading Program. This action is necessary in order for Louisiana to adopt the general and specific provisions for the CAIR SO₂ Trading Program, under Section 110 of the Clean Air Act, as a means of mitigating interstate transport of fine particulate and sulfur dioxide. By adopting 40 CFR Part 96, Subparts AAA-HHH, the state is authorizing EPA to assist the state in implementing the CAIR SO₂ Trading Program.

On March 10, 2005, EPA announced the Clean Air Interstate Rule (CAIR), a rule that will achieve reduction in air pollution by regulating sulfur dioxide (SO₂) and nitrogen oxides (NO_x) emissions from 23 states and the District of Columbia. These pollutants contribute to levels of fine particles (PM_{2.5}) in areas above the air quality standard in downwind states. In addition, NO_x emissions in 25 eastern states and the District of Columbia contribute to levels of ozone in areas above the air quality standard for 8-hour ozone in other downwind states. In developing the CAIR SO₂ regulations and the cap-and-trade program, the Environmental Protection Agency relied on the successful Acid Rain Program/cap-and-trade program. The resulting CAIR SO₂ cap-and-trade program and the Acid Rain Program use a common SO₂ allowance system. EPA has promulgated changes to the Acid Rain Program that provide for this common structure. These revisions enable the CAIR SO₂ cap-and-trade program to accept Acid Rain SO₂ allocations for trading, selling, and/or determining compliance with the CAIR SO₂ program. The basis and rationale for this rule are to mirror the federal regulations.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33 ENVIRONMENTAL QUALITY Part III. Air

Chapter 5. Permit Procedures

§506. Clean Air Interstate Rule Requirements

- A. Reserved.
- B. Reserved.

C. Annual Sulfur Dioxide. Except as specified in this Section, the Federal SO₂ Model Rule, published in the *Code of Federal Regulations* at 40 CFR Part 96, July 1, 2005, and as revised at 70 FR 25162-25405, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, is hereby incorporated by reference, except for Subpart III-CAIR SO₂ Opt-in Units and all references to opt-in units.

D. Copies of documents incorporated by reference in this Section may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20540 or their website, www.gpoaccess.gov/cfr/index.html; from the Department of Environmental Quality, Office of Environmental Services, Air Permits Division; or from a public library.

E. Modifications or Exceptions. A copy of each report or notice or of any other documentation required by the referenced regulations (i.e., 40 CFR Part 96) to be provided to "the Administrator" shall be provided to the Office of Environmental Services, Air Permits Division, by the person required to make submission to "the Administrator."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of the Secretary, Legal Affairs Division, LR 32:1597 (September 2006).

Herman Robinson, CPM
Executive Counsel

0609#019

RULE

Department of Environmental Quality Office of the Secretary Legal Affairs Division

Incorporation by Reference of the Acid Rain Program (LAC 33:III.505)(AQ259ft)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.505 (Log #AQ259ft).

This Rule is identical to federal regulations found in 40 CFR Part 72 (July 1, 2005), and 70 FR 25162-25405 (May 12, 2005) and 71 FR 25328-25469 (April 28, 2006), which are applicable in Louisiana. For more information regarding the federal requirement, contact the Regulation Development Section at (225) 219-3550 or Box 4302, Baton Rouge, LA 70821-4302. No fiscal or economic impact will result from the Rule; therefore, the Rule will be promulgated in accordance with R.S. 49:953(F)(3) and (4).

This Rule replaces the existing Acid Rain Program regulations with an incorporation by reference of the recently revised federal regulations concerning the Acid Rain Program. This action is necessary in order for Louisiana to adopt the general and specific provisions for the CAIR SO₂ Trading Program, under Section 110 of the Clean Air Act, as a means of mitigating interstate transport of fine particulate and sulfur dioxide. By adopting the Acid Rain Program, 40 CFR Part 72, in its entirety, the state is authorizing EPA to assist the state in implementing the CAIR SO₂ Trading Program.

On March 10, 2005, EPA announced the Clean Air Interstate Rule (CAIR), a rule that will achieve reduction in air pollution by regulating sulfur dioxide (SO₂) and nitrogen oxides (NO_x) emissions from 23 states and the District of Columbia. These pollutants contribute to levels of fine particles (PM_{2.5}) in areas above the air quality standard in downwind states. In addition, NO_x emissions in 25 eastern states and the District of Columbia contribute to levels of ozone in areas above the air quality standard for 8-hour ozone in other downwind states. In developing the CAIR SO₂ regulations and the cap-and-trade program, the Environmental Protection Agency relied on the successful Acid Rain Program/cap-and-trade program. The resulting CAIR SO₂ cap-and-trade program and the Acid Rain Program use a common SO₂ allowance system. EPA has promulgated changes to the Acid Rain Program that provide for this common structure. These revisions enable the CAIR SO₂ cap-and-trade program to accept Acid Rain SO₂ allocations for trading, selling, and/or determining compliance with the CAIR SO₂ program. The recent changes to the Acid Rain Program at the federal level due to CAIR will require the state to modify its Acid Rain rule at LAC 33:III.505. The incorporation of the federal Acid Rain Rule will ensure continuity between the Acid Rain Program and the implementation of the CAIR SO₂ Program. The basis and rationale for this Rule are to mirror the federal regulations.

This Rule meets an exception listed in R.S. 30:2019(D)(2) and R.S. 49:953(G)(3); therefore, no report regarding environmental/health benefits and social/economic costs is required. This Rule has no known impact on family formation, stability, and autonomy as described in R.S. 49:972.

Title 33
ENVIRONMENTAL QUALITY
Part III. Air

Chapter 5. Permit Procedures

§505. Acid Rain Program Permitting Requirements

A. The Acid Rain Program regulations, published in the *Code of Federal Regulations* at 40 CFR Part 72, July 1, 2005, and as revised at 70 FR 25162-25405, May 12, 2005, and 71 FR 25328-25469, April 28, 2006, are hereby incorporated by reference.

B. Copies of documents incorporated by reference in this Section may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20242 or their website, www.gpoaccess.gov/cfr/index.html; from the Department of Environmental Quality, Office of Environmental Services, Air Permits Division; or from a public library.

C. Modifications or Exceptions. A copy of each report or notice or of any other documentation required by the referenced regulations (i.e., 40 CFR Part 72) to be provided to "the Administrator" shall be provided to the Office of Environmental Services, Air Permits Division, by the person required to make submission to "the Administrator."

AUTHORITY NOTE: Promulgated in accordance with R.S. 30:2054.

HISTORICAL NOTE: Promulgated by the Department of Environmental Quality, Office of Air Quality and Nuclear Energy, Air Quality Division, LR 13:741 (December 1987), amended by the Office of Air Quality and Radiation Protection, Air Quality Division, LR 19:1420 (November 1993), LR 21:678 (July 1995), amended by the Office of Environmental Assessment, Environmental Planning Division, LR 26:2446 (November 2000), amended by the Office of the Secretary, Legal Affairs Division, LR 31:2429, 2436 (October 2005), LR 32:1598 (September 2006).

Herman Robinson, CPM
Executive Counsel

0609#018

RULE

Department of Environmental Quality
Office of the Secretary
Legal Affairs Division

Major Stationary Source/Major Modification Emission
Thresholds for Baton Rouge Ozone Nonattainment Area
(LAC 33:III.111, 504, 509, 607, 709, and 711)(AQ253)

Under the authority of the Environmental Quality Act, R.S. 30:2001 et seq., and in accordance with the provisions of the Administrative Procedure Act, R.S. 49:950 et seq., the secretary has amended the Air regulations, LAC 33:III.111, 504, 509, 607, 709, and 711 (Log #AQ253).

The department promulgated an emergency rule on June 15, 2005, to address rule revisions needed for transition from the 1-hour ozone National Ambient Air Quality Standard (NAAQS) to the 8-hour ozone NAAQS. The 1-hour ozone standard was revoked by the EPA in the federal 8-hour ozone implementation rule. The revocation of the 1-hour ozone standard was effective June 15, 2005. Under the 1-hour ozone standard the five-parish Baton Rouge ozone nonattainment area was classified as severe. Under the 8-hour ozone standard the Baton Rouge area is classified as marginal with an attainment date of June 15, 2007. To continue efforts toward attainment of the 8-hour ozone standard in the Baton Rouge area, this Rule promulgates the revisions in LAC 33:III.Chapters 5 and 6 to the major stationary source threshold values, the major modification significant net increase values, and the minimum offset ratios for the Baton Rouge nonattainment area at values more in line with those listed for a classification of serious than for the marginal classification. These revisions include changing references to the ozone standard from the 1-hour standard to the 8-hour standard; amending text to reflect the NSR requirements applying to large sources in nonattainment areas for the 8-hour standard; including nitrogen oxides as a precursor for ozone; including the current fine particle (PM_{2.5}) NAAQS; and amending Tables